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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,329	02/05/2004	Tom Long	FRIEL-104	8519

7590 03/21/2007
Connolly Bove Lodge & Hutz LLP
P.O. Box 2207
Wilmington, DE 19899-2207

EXAMINER

FUQUA, SHAWNTINA T

ART UNIT	PAPER NUMBER
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3742

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/21/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/774,329	Applicant(s) LONG ET AL.	
	Examiner Shawntina T. Fuqua	Art Unit 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-8, 18 and 20-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5, 6, 18, 20-28, 30 and 31 is/are allowed.
- 6) ☒ Claim(s) 3, 4, 7, 8, 29 and 32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 3 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Cohn (US3279351).

Cohn discloses an electrically heated kettle comprising a vessel (12) including a partially open immersible container (26) sized to allow passage of liquid and capable of holding a material (column 2, lines 15-25, 42-51), structure to hold container out of liquid until the liquid reaches the appropriate temperature (column 1, lines 64-69), to immerse or withdraw container into or from liquid as necessary (column 2, line 52-column 3, line 35), structure to hold container out of liquid is a mechanical arm (85) actuated by a solenoid (90) that presses against a physical feature of container (column 3, lines 16-27), and container is manually removable (column 3, lines 28-35).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4, 7, 8, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohn as applied to claims 3 and 29 above, and further in view of Husted et al (US6135010). Cohn discloses all of the recited subject matter except a switching structure for the solenoid, user operated electrical controls to preprogram the desired extraction and brewing time, and an electrical processor to store more than one combination of programmed temperature and times for different brewing conditions. Husted discloses a switching structure for the solenoid (column 4, lines 8-13), user operated electrical controls to preprogram the desired extraction and brewing time (column 4, lines 24-41), and an electrical processor to store more than one combination of programmed temperature and times for different brewing conditions (column 4, line 58-column 4, line 12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included the switching structure, user operated electrical controls which are preprogrammed, and an electrical processor to store more than one combination as taught by Husted et al in the electrical kettle of Cohn, because a switching structure allows the solenoid to be accurately controlled and preprogrammed user operated electrical controls and an electrical processor which stores different brewing combinations allows the user more flexibility in preparing the beverage to their taste.

Allowable Subject Matter

5. Claims 5, 6, 18, and 20-28, and 30-31 are allowed.
6. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record neither discloses nor suggests in combination with the other limitations of the

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independent claims an electrically heated kettle comprising a vessel including a partially open immersible container capable of holding food material in container while providing an opening to allow entrance of liquid upon immersion in liquid wherein the kettle has a structure to hold the container out of the liquid where the structure to hold the container is an electromagnet and container includes a ferromagnetic element attracted and held by a magnetic field, container is a meshed screen with an adjustable shutter adjacent to the screen, a container with multiple adjustable openings, an electrically heated kettle with an electrical sensor to generate an electrical signal proportional to the temperature of the liquid and to transmit the signal to the processor so that the processor can determine when the liquid is boiling and determine and store the exact value of temperature of boiling point and prevent subsequent adjustment of set desired temperature to any value above the boiling temperature established by the processor, an electrically heated kettle with an associated data storage device to accept and store the electrical signal created by the detector while liquid is being heated and to calculate the rate of rise of that electrical signal and to store the value of the signal at the instant in time that the rate of temperature rise goes to zero.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawntina T. Fuqua whose telephone number is (571) 272-4779. The examiner can normally be reached on Monday-Friday 8-4:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Philip Leung can be reached on (571) 272-4782. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

stf
March 13, 2007

A handwritten signature in black ink, appearing to read "Shawntina Fuqua", written in a cursive style.

Shawntina Fuqua
Patent Examiner
Art Unit 3742